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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,262	07/27/2001	Derek Edward Sumpter	SUMPTER-DB-01	7810

7590 05/05/2004

SIMON, GALASSO & FRANTZ PLC.  
P.O. Box 26503  
Austin, TX 78755-0503

EXAMINER
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FOX, CHARLES A

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/917,262

Applicant(s)

SUMPTER, DEREK EDWARD

Examiner

Charles A. Fox

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-7 and 9 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of Fors and further in view of Bonerb. The admitted prior art teaches an articulated trailer comprising:

- an enclosed elongated material carrying space;
- a plurality of road wheels;
- a floor, two side walls, a rear wall, a roof and a front with access doors therein;
- a walking floor for moving cargo into or out of said carrying space via said doors.

The admitted prior art does not teach a hatch in the roof proximate to said front of trailer or a transverse wall that moves longitudinally within said carrying space. Fors US 3,998,343 teaches a trailer with a carrying space comprising:

- a transverse wall (78) movable in a longitudinal direction within the trailer;
- wherein when said wall is proximate the front of said trailer usable carrying space is at a minimum, and when said wall is proximate the rear of the trailer said usable carrying space is at a maximum;
- wherein said trailer also has transport means in the form of a belt (144) for moving material towards the rear wall of said trailer. Fors does not teach a hatch in the roof of said trailer.

Bonerb US 4,722,655 teaches a trailer comprising a hatch (26) near the front of the trailer, wherein said hatch has a removable cover (29) allowing the full extent of the hatch opening to be unobstructed. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the admitted prior art with the transverse wall as taught by Fors to make loading the trailer easier and to further place a hatch in the front portion of the roof as taught by Bonerb in order to make it possible to load loose material into said trailer.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art, Fors and Bonerb as applied to claim 1 above, and further in view of Anderson. The admitted prior art, Fors and Bonerb teach the limitations of claim 1 as above, they do not teach any structure for the hatch. Anderson US 3,514,902 teaches a roof access door (42) comprising:

two wheels (44) on each side of said door, each wheel engaging a respective horizontal channel (34) mounted on the roof of the container to either side of the opening in said roof;

wherein each channel assembly (34) comprises a substantially horizontal portion and an inclined portion, where said inclined portion is adjacent to said opening in roof and said inclined portion is downward sloping with respect to the horizontal portion of said channel assembly: and

the roof access door (42) is remotely actuated via cylinder (46) to open and close said opening on container roof.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the admitted prior art with a hatch as taught by Anderson in order to effectively seal the top of the trailer from the weather and to allow loading via said hatch when needed, all without the need for an operator to climb on top of the trailer to open said hatch, thereby increasing the safety of the trailer during operation.

***Response to Amendment***

The amendments to the claims filed on February 9, 2004 have been entered into the record.

***Response to Arguments***

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 703-605-4294. The examiner can normally be reached between 7:00-5:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CAF

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4/26/04



EILEEN D. LILLIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600